

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1069 of 2005

14.12.2006

Between:

Reddy Venkat Rao, S/o.Ramachandrudu
And another

... Petitioners

AND

The Mandal Revenue Officer, Mandapeta, East Godavari District
And another

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1069 of 2005

ORDER:

The second petitioner is the son of the first petitioner. They filed the present writ petition seeking a writ of Mandamus declaring the action of the Mandal Revenue Officer (MRO), Mandapeta, first respondent herein, in trying to dispossess the petitioners from the land admeasuring Acs.1.70 in survey No.11/4 situated at Mernipadu village of Mandapeta Mandal in East Godavari District. It is their case that they purchased the said property under different sale deeds dated 05.7.1952, 08.7.1965 and 12.12.1988 from the previous owners. On 22.1.2005, the first respondent surveyed the land and informed the petitioners that they would be evicted forcibly. Contending that such action is contrary to law, the present writ petition is filed.

This Court while admitting the writ petition ordered *status quo* on 31.01.2005. The respondents have now filed application for vacating the interim order. The writ petition is heard finally with the consent of the learned Counsel for both the parties and is being disposed of by this order.

It is the case of the respondents that Sarpanch of Mernipadu Gram Panchayat addressed a letter to the first respondent requesting to evict the encroachers from the Government land in R.S.No.11/4. A survey was conducted and a notice was issued to the petitioners and another. Petitioners are in occupation of the Government land and pursuant to the notice, all the persons who received notices filed documents in January 2005 before the first respondent. Even before the enquiry could be completed, the present writ petition is filed.

Learned Counsel for the petitioners relies on the averment in the counter affidavit that a notice has been issued to the petitioners and submits that when the petitioners are in possession of the land any

coercive dispossession would be illegal. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that even according to the document No.46 of 1929, dated 09.1.1929 submitted by the petitioner before the MRO, the land is described as village site (Gram Kantham). Therefore, it is always open to the respondents to initiate necessary action under A.P. Land Encroachment Act, 19055 (the Act, for brevity).

The controversy is in a narrow compass. Both the parties agree that the petitioners are in possession of the land. There is however dispute that the land is private land or Government land. The petitioners rely on certified Xerox copies of the sale deeds under which they claim the title whereas the official respondents rely on the revenue records and the survey conducted in December 2004 as well as the sale deed of 1929. In a situation of this nature, initially it is for the Revenue Authorities to conduct enquiry. This was precisely done. After issuing notice, the petitioners submitted necessary documents and the enquiry is still pending. It would be, therefore, proper for the MRO to complete the enquiry and after completing it, if he comes to the conclusion that the land, which is in possession of the petitioners, is not private land, it is open for the MRO either to file a suit or approach the Special Tribunal under A.P. Land Grabbing (Prohibition) Act, 1982, or initiate action under the Act. Without any such due process of law, the possession of the petitioners shall not be disturbed. The MRO may complete the enquiry within a period of eight weeks from the date of receipt of a copy of this order and take necessary action in accordance with law.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

December 14, 2006.
YS

(V.V.S.RAO,J)